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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,606	07/26/2001	Judson L. Smith	4024-16	6777

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EXAMINER

MAUST, TIMOTHY LEWIS

ART UNIT PAPER NUMBER

3751

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DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/915,606

Applicant(s)

SMITH, JUDSON L.

Examiner

Timothy L. Maust

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-90 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-52 and 84-87 is/are allowed.
- 6) ☐ Claim(s) 1, 8-11, 53-56, 69, 72-74 and 88 is/are rejected.
- 7) ☒ Claim(s) 2-7, 12-17, 57-68, 70, 71, 75-83, 89 and 90 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 72 and 88 are rejected under 35 U.S.C. 102(b) as being anticipated by Segal.

In regard to claims 72 and 88, the Segal reference discloses a “system” (Fig. 1) comprising a plurality of hand cleaning agent “dispensers” 110 (see Fig. 4), a “control station” 18, “recognizing means” (defined by a user code; see col. 4, lines 56-59) and time “recording means” (see col. 5, lines 39-50), as claimed.

Claims 1, 8-11, 53-56 and 69 are rejected under 35 U.S.C. 102(e) as being anticipated by Thompson et al.

In regard to claims 1, 8, 11, 53-56 and 69, the Thompson et al. reference discloses a hand treatment agent “dispenser” 100 comprising a “housing” 110, “storing

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means" (defined by a flexible bag or cartridge; see col. 5, lines 36-38), a "port" 220, a "discharging means" 140 and a "unique identifier" (unlabeled; defined by a four digit code used to obtain data from the dispenser; see col. 7, lines 44-65), as claimed.

In regard to claim 9, see col. 5, lines 9-11 and 31-35.

In regard to claims 10 and 69, see col. 5, lines 12-24.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal in view of Thompson et al.

The Segal reference discloses the invention substantially as claimed (discussed supra), but does not disclose the specifics of the storing means 50 having a replaceable cartridge. However, the Thompson et al. reference (discussed supra) comprises a replaceable cartridge for the convenience of refilling the dispenser when emptied. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Segal reference to accommodate replaceable cartridges in it's storing means (if not already) as, for example, taught by Thompson et al. in order to provide ease and convenience of refilling the dispenser when emptied.

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Further, in regard to claim 74, each replaceable cartridge has a "unique identifier" by shape alone.

Allowable Subject Matter

Claims 18-52 and 84-87 allowed.

Claims 2-7, 12-17, 57-68, 70-71, 75-83, 89 and 90 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Levy et al. and Cohen et al. references pertain to various handwash monitoring systems, similar in scope to Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (703) 308-3390. The examiner can normally be reached on Tues. - Fri. 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.

A handwritten signature in black ink, appearing to read "Timothy L. Maust". The signature is fluid and cursive, with a long horizontal stroke at the end.

Timothy L. Maust
Primary Examiner
Art Unit 3751

tlm
June 13, 2003